
SUBSTITUTE SENATE BILL 5509

State of Washington

59th Legislature

2005 Regular Session

By Senate Committee on Water, Energy & Environment (originally sponsored by Senators Poulsen, Esser, Fraser, Schmidt, Pridemore, Fairley, Berkey, Kohl-Welles, Kline, Regala, Rockefeller, Weinstein, Brown, Keiser and McAuliffe)

READ FIRST TIME 03/02/05.

1 AN ACT Relating to high-performance green buildings; adding new
2 sections to chapter 28A.150 RCW; adding a new section to chapter 28B.10
3 RCW; adding a new section to chapter 39.04 RCW; and adding a new
4 chapter to Title 39 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that public
7 buildings can be built and renovated using high-performance methods
8 that save money, improve school performance, and make workers more
9 productive. High-performance public buildings are proven to increase
10 student test scores, reduce worker absenteeism, and cut energy and
11 utility costs.

12 (2) It is the intent of the legislature that state-owned buildings
13 and schools be improved by adopting recognized standards for high-
14 performance public buildings and allowing flexible methods and choices
15 in how to achieve those standards. The legislature also intends that
16 public agencies and public school districts shall document costs and
17 savings to monitor this program and ensure that economic, community,
18 and environmental goals are achieved each year, and that an independent

1 performance review be conducted to evaluate this program and determine
2 the extent to which the results intended by this chapter are being met.

3 NEW SECTION. **Sec. 2.** The definitions in this section apply
4 throughout this chapter unless the context clearly requires otherwise.

5 (1) "Department" means the department of general administration.

6 (2) "High-performance public buildings" means high-performance
7 public buildings designed, constructed, and certified to a standard as
8 identified in this chapter.

9 (3) "Institutions of higher education" means the state
10 universities, the regional universities, The Evergreen State College,
11 the community colleges, and the technical colleges.

12 (4) "LEED silver standard" means the United States green building
13 council leadership in energy and environmental design green building
14 rating standard, referred to as silver standard.

15 (5)(a) "Major facility project" means: (i) A construction project
16 larger than five thousand gross square feet of occupied space; and (ii)
17 a building renovation project when the cost is greater than fifty
18 percent of the assessed value and the project is larger than five
19 thousand gross square feet of occupied space.

20 (b) "Major facility project" does not include: (i) Projects for
21 which the department or applicable agency and the design team determine
22 the LEED silver standard or the Washington sustainable school design
23 protocol to be not practicable; or (ii) transmitter buildings, pumping
24 stations, hospitals, or other similar building types as determined by
25 the department. When the LEED silver standard is determined to be not
26 practicable for a project, then it must be determined if any LEED
27 standard is practicable for the project. If LEED standards are not
28 followed for the project, the agency shall report these reasons to the
29 department.

30 (6) "Public agency" means every state office, officer, board,
31 commission, committee, bureau, department, and public higher education
32 institution.

33 (7) "Public school district" means a school district eligible to
34 receive state basic education moneys pursuant to RCW 28A.150.250 and
35 28A.150.260.

36 (8) "Washington sustainable school design protocol" means the
37 school design protocol and related information developed by the state

1 board of education and the office of the superintendent of public
2 instruction, in conjunction with school districts and the school
3 facilities advisory board.

4 NEW SECTION. **Sec. 3.** (1) All major facility projects of public
5 agencies receiving any funding in a state capital budget must be
6 designed, constructed, and certified to at least the LEED silver
7 standard. This subsection applies to major facility projects that have
8 not entered the design phase prior to the effective date of this
9 section and to the extent appropriate LEED silver standards exist for
10 that type of building or facility.

11 (2) All major facility projects of any entity other than a public
12 agency or public school district receiving any funding in a state
13 capital budget must be designed, constructed, and certified to at least
14 the LEED silver standard. This subsection applies to major facility
15 projects that have not entered the design phase prior to the effective
16 date of this section and to the extent appropriate LEED silver
17 standards exist for that type of building or facility.

18 (3)(a) Public agencies, under this section, shall monitor and
19 document ongoing operating savings resulting from major facility
20 projects designed, constructed, and certified as required under this
21 section.

22 (b) Public agencies, under this section, shall report annually to
23 the department on major facility projects and operating savings.

24 (4) The department shall consolidate the reports required in
25 subsection (3) of this section into one report and report to the
26 governor and legislature by September 1st of each even-numbered year
27 beginning in 2006. In its report, the department shall also report on
28 the implementation of this chapter and make recommendations regarding
29 the ongoing implementation of this chapter, including a discussion of
30 incentives and disincentives related to implementing this chapter.

31 NEW SECTION. **Sec. 4.** (1) All major facility projects of public
32 school districts receiving any funding in a state capital budget must
33 be designed and constructed to at least the LEED silver standard or the
34 Washington sustainable school design protocol. To the extent
35 appropriate LEED silver or Washington sustainable school design
36 protocol standards exist for the type of building or facility, this

1 subsection applies to major facility projects that have not entered the
2 design phase prior to: (a) July 1, 2006, for volunteering school
3 districts; (b) July 1, 2007, for class one school districts; and (c)
4 July 1, 2008, for class two school districts.

5 (2) Public school districts under this section shall: (a) Monitor
6 and document appropriate operating benefits and savings resulting from
7 major facility projects designed and constructed as required under this
8 section for a minimum of five years following local board acceptance of
9 a project receiving state funding; and (b) report annually to the
10 superintendent of public instruction. The form and content of each
11 report must be mutually developed by the office of the superintendent
12 of public instruction in consultation with school districts.

13 (3) The superintendent of public instruction shall consolidate the
14 reports required in subsection (2) of this section into one report and
15 report to the governor and legislature by September 1st of each even-
16 numbered year beginning in 2006. In its report, the superintendent of
17 public instruction shall also report on the implementation of this
18 chapter and make recommendations regarding the ongoing implementation
19 of this chapter, including a discussion of incentives and disincentives
20 related to implementing this chapter.

21 (4) The state board of education, in consultation with the
22 superintendent of public instruction, shall develop and issue
23 guidelines for administering this chapter for public school districts.
24 The purpose of the guidelines is to define a procedure and method for
25 employing and verifying compliance with the LEED silver standard or the
26 Washington sustainable school design protocol.

27 (5) The superintendent of public instruction shall utilize the
28 school facilities advisory board as a high-performance buildings
29 advisory committee comprised of affected public schools, the state
30 board of education, the superintendent of public instruction, the
31 department, and others at the superintendent of public instruction's
32 discretion to provide advice on implementing this chapter. Among other
33 duties, the advisory committee shall make recommendations regarding an
34 education and training process and an ongoing evaluation or feedback
35 process to help the superintendent of public instruction and the state
36 board of education implement this chapter.

1 NEW SECTION. **Sec. 5.** On or before January 1, 2009, the department
2 and the superintendent of public instruction shall summarize the
3 reports submitted under sections 3(4) and 4(3) of this act and submit
4 the individual reports to the legislative committees on capital budget
5 and ways and means for review of the program's performance and
6 consideration of any changes that may be needed to adapt the program to
7 any new or modified standards for high-performance buildings that meet
8 the intent of this chapter.

9 NEW SECTION. **Sec. 6.** (1)(a) The department, in consultation with
10 affected public agencies, shall develop and issue guidelines for
11 administering this chapter for public agencies. The purpose of the
12 guidelines is to define a procedure and method for employing and
13 verifying activities necessary for certification to at least the LEED
14 silver standard for major facility projects.

15 (b) The department and the office of the superintendent of public
16 instruction shall amend their fee schedules for architectural and
17 engineering services to accommodate the requirements in the design of
18 major facility projects under this chapter.

19 (c) The department and the office of the superintendent of public
20 instruction shall procure architecture and engineering services
21 consistent with chapter 39.80 RCW.

22 (d) Major facility projects designed to meet standards identified
23 in this chapter must include building commissioning as a critical cost-
24 saving part of the construction process. This process includes input
25 from the project design and construction teams and the project
26 ownership representatives.

27 (e) As provided in the request for proposals for construction
28 services, the operating agency shall hold a preproposal conference for
29 prospective bidders to discuss compliance with and achievement of
30 standards identified in this chapter for prospective respondents.

31 (2) The department shall create a high-performance buildings
32 advisory committee comprised of representatives from the design and
33 construction industry involved in public works contracting, personnel
34 from the affected public agencies responsible for overseeing public
35 works projects, the state board of education, the office of the
36 superintendent of public instruction, and others at the department's
37 discretion to provide advice on implementing this chapter. Among other

1 duties, the advisory committee shall make recommendations regarding an
2 education and training process and an ongoing evaluation or feedback
3 process to help the department implement this chapter.

4 (3) The department and the state board of education shall adopt
5 rules to implement this section.

6 NEW SECTION. **Sec. 7.** A new section is added to chapter 28A.150
7 RCW to read as follows:

8 (1) In adopting implementation rules, the state board of education,
9 in consultation with the superintendent of public instruction and the
10 department of general administration, shall review and modify the
11 current requirement for an energy conservation report review by the
12 department of general administration as provided in WAC 180-27-075.

13 (2) In adopting implementation rules, the state board of education,
14 in consultation with the superintendent of public instruction shall:

15 (a) Review and modify the current requirements for value
16 engineering, constructability review, and building commissioning as
17 provided in WAC 180-27-080;

18 (b) Review private and public utility providers' capacity and
19 financial/technical assistance programs for affected public school
20 districts to monitor and report utility consumption for purposes of
21 reporting to the superintendent of public instruction as provided in
22 section 4 of this act;

23 (c) Coordinate with the department of general administration, the
24 state board of health, the department of ecology, federal agencies, and
25 other affected agencies as appropriate in their consideration of rules
26 to implement this section.

27 NEW SECTION. **Sec. 8.** A new section is added to chapter 28B.10 RCW
28 to read as follows:

29 Institutions of higher education must comply with high-performance
30 public building requirements under sections 1 through 3 and 6 of this
31 act.

32 NEW SECTION. **Sec. 9.** A new section is added to chapter 28A.150
33 RCW to read as follows:

34 Public school districts must comply with high-performance public
35 building requirements under sections 1, 2, 4, 6, and 7 of this act.

1 NEW SECTION. **Sec. 10.** A member of the design or construction
2 teams may not be held liable for the failure of a major facility
3 project to meet the LEED silver standard or other LEED standard
4 established for the project as long as a good faith attempt was made to
5 achieve the LEED standard set for the project.

6 NEW SECTION. **Sec. 11.** A new section is added to chapter 39.04 RCW
7 to read as follows:

8 For purposes of determining compliance with chapter 39.-- RCW
9 (sections 1 through 6, 10, 12, and 13 of this act), the department of
10 general administration shall credit the project for using wood products
11 with a credible third party sustainable forest certification or from
12 forests regulated under chapter 76.09 RCW, the Washington forest
13 practices act.

14 NEW SECTION. **Sec. 12.** Except as provided in this section,
15 affordable housing projects funded out of the state capital budget are
16 exempt from the provisions of this chapter. On or before July 1, 2008,
17 the department of community, trade, and economic development shall
18 identify, implement, and apply a sustainable building program for
19 affordable housing projects that receive housing trust fund (under
20 chapter 43.185 RCW) funding in a state capital budget. The department
21 of community, trade, and economic development shall not develop its own
22 sustainable building standard, but shall work with stakeholders to
23 adopt an existing sustainable building standard or criteria appropriate
24 for affordable housing. Any application of the program to affordable
25 housing, including any monitoring to track the performance of either
26 sustainable features or energy standards or both, is the responsibility
27 of the department of community, trade, and economic development.

28 NEW SECTION. **Sec. 13.** The joint legislative audit and review
29 committee, or its successor legislative agency, shall conduct a
30 performance review of the high-performance buildings program
31 established under this chapter.

- 32 (1) The performance audit shall include, but not be limited to:
- 33 (a) The identification of the costs of implementation of high-
34 performance building standards in the design and construction of major
35 facility projects subject to this chapter;

1 (b) The identification of operating savings attributable to the
2 implementation of high-performance building standards, including but
3 not limited to savings in energy, utility, and maintenance costs;

4 (c) The identification of any impacts of high-performance buildings
5 standards on worker productivity and student performance; and

6 (d) An evaluation of the effectiveness of the high-performance
7 building standards established under this chapter, and recommendations
8 for any changes in those standards that may be supported by the
9 committee's findings.

10 (2) The committee shall make a preliminary report of its findings
11 and recommendations on or before December 1, 2010, and a final report
12 on or before July 1, 2011.

13 NEW SECTION. **Sec. 14.** Sections 1 through 6, 10, 12, and 13 of
14 this act constitute a new chapter in Title 39 RCW.

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